

which the exemption applies. Water used for watering livestock raised by a farmer is “for agricultural purposes.”

§ 780.409 Employment “in connection with the operation or maintenance” is exempt.

The irrigation exemption provided by section 13(b)(12) applies to “any employee employed * * * in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways” of an irrigation system which qualifies for the exemption. The employee, to be exempt, must be employed “in connection with the operation or maintenance” of the named facilities; other employees of the irrigation system, not employed in connection with the named activities, are not exempt. The exemption may apply to employees engaged in insect, rodent, and weed control along the canals and waterways of the irrigation system.

Subpart F—Employment or Agricultural Employees in Processing Shade-Grown Tobacco; Exemption From Minimum Wage and Overtime Pay Requirements Under Section 13(a)(14)

INTRODUCTORY

§ 780.500 Scope and significance of interpretative bulletin.

Subpart A of this part 780 and this subpart F together constitute the official interpretative bulletin of the Department of Labor with respect to the meaning and application of section 13(a)(14) of the Fair Labor Standards Act of 1938, as amended. This section provides an exemption from the minimum wage and overtime pay provisions of the Act for certain agricultural employees engaged in the processing, prior to stemming, or shade-grown tobacco for use as cigar wrapper tobacco. As appears more fully in subpart A, interpretations in this bulletin with respect to provisions of the Act discussed are official interpretations upon which reliance may be placed and which will guide the Secretary of Labor and the Administrator in the performance of their duties under the Act. The exemptions provided in section 13(a)(6) of the

Act for employees employed in agriculture is not discussed in this subpart except in its relation to section 13(a)(14). The meaning and application of the section 13(a)(6) exemption is fully considered in subpart D of this part 780.

§ 780.501 Statutory provision.

Section 13(a)(14) of the Fair Labor Standards Act exempts from the minimum wage requirements of section 6 of the Act and from the overtime provisions of section 7:

Any agricultural employee employed in the growing and harvesting of shade-grown tobacco who is engaged in the processing (including, but not limited to, drying, curing, fermenting, bulking, rebulking, sorting, grading, aging, and baling) of such tobacco, prior to the stemming process, for use as cigar wrapper tobacco.

§ 780.502 Legislative history of exemption.

The exemption for shade-grown tobacco workers was added to the Act by the Fair Labor Standards Amendments of 1961. The intent of the committee which inserted the provision in the amendments which were reported to the House (see H. Rept. No. 75, 87th Cong., first sess., p. 29) was to exclude from the minimum wage and overtime requirements of the Act “employees engaged prior to the stemming process in processing shade-grown tobacco for use as cigar wrapper tobacco, but only if the employees were employed in the growing and harvesting of such tobacco”. The Report also pointed out that “such operations were assumed to be exempt prior to the case of *Mitchell v. Budd*, 350 U.S. 473 (1956), as a continuation of the agricultural process occurring in the vicinity where the tobacco was grown”. The original provision in the House-passed bill was in the form of an amendment to the Act’s definition of agriculture. In that form, it would have altered the effect of the Supreme Court’s decision in the case of *Mitchell v. Budd*, cited above, by bringing the described employees under the exemption provided for agriculture in section 13(a)(6) of the Act. (H. Rept. No. 75, p. 26, and H. Rept. No. 327, p. 17, 87th Cong., first sess.) The Conference Committee, in changing the provision to